

United States District Court

For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 *In re Malibu Media BitTorrent Copyright
14 Infringement Litigation*

10 No. C 16-05737 WHA
11 No. C 16-05738 WHA
12 No. C 16-05739 WHA
13 No. C 16-05823 WHA
14 No. C 16-05824 WHA
15 No. C 16-05825 WHA
16 No. C 16-05826 WHA
17 No. C 16-05827 WHA
18 No. C 16-05828 WHA
19 No. C 16-05829 WHA
20 No. C 16-05843 WHA
21 No. C 16-05845 WHA
22 No. C 16-05847 WHA
23 No. C 16-05848 WHA
24 No. C 16-05849 WHA
25 No. C 16-05850 WHA
26 No. C 16-05855 WHA
27 No. C 16-05920 WHA
28 No. C 16-05921 WHA
 No. C 16-05922 WHA
 No. C 16-05923 WHA
 No. C 16-05925 WHA
 No. C 16-05926 WHA
 No. C 16-05927 WHA
 No. C 16-05970 WHA
 No. C 16-05972 WHA
 No. C 16-05973 WHA
 No. C 16-05974 WHA
 No. C 16-05975 WHA
 No. C 16-05976 WHA
 No. C 16-05977 WHA
 No. C 16-06106 WHA
 No. C 16-06107 WHA
 No. C 16-06108 WHA
 No. C 16-06109 WHA
 No. C 16-06110 WHA
 No. C 16-06111 WHA
 No. C 16-06112 WHA
 No. C 16-06141 WHA

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1 No. C 16-06143 WHA
2 No. C 16-06144 WHA
3 No. C 16-06146 WHA
4 No. C 16-06147 WHA
5 No. C 16-06155 WHA
6 No. C 16-06160 WHA
7 No. C 16-06239 WHA
8 No. C 16-06240 WHA
9 No. C 16-06241 WHA
10 No. C 16-06242 WHA
11 No. C 16-06243 WHA
12 No. C 16-06245 WHA
13 No. C 16-06247 WHA
14 No. C 16-06249 WHA

**ORDER DENYING MOTIONS
FOR LEAVE TO SERVE A
THIRD-PARTY SUBPOENA**

15 In each of the above-captioned cases, plaintiff Malibu Media, LLC, seeks leave to serve
16 a third-party subpoena on the defendant's Internet service provider for the purpose of obtaining
17 each defendant's personal information, since the defendants are currently only identifiable by
18 the Internet Protocol address of the connection used to commit the alleged infringement.

19 Malibu Media then looked up each defendant's IP address in a database maintained at
20 maxmind.com to determine the location of the given IP address and the service provider that
21 assigned that IP address. Plaintiff's counsel filed a sworn declaration averring "from the
22 lawsuits Malibu Media has filed in California, Maxmind's geolocation data has always been
23 100% accurate to the state level, 100% accurate at identifying the ISP and has predicted the
24 correct district 146 out of 147 times" (Mosesi Decl. ¶ 15). Attorney Mosesi appended an
25 spreadsheet to back up that data, but the spreadsheet omitted dozens of cases filed in this district
26 alone.

27 It appears those cases were omitted because Malibu Media never received a response
28 from the Internet service provider in those cases, but the failure to address so many cases in this

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1 district (and presumably elsewhere in California) casts significant doubt on counsel's personal
2 knowledge of the accuracy of the Maxmind database. Maxmind's own statements of its
3 accuracy, restated in counsel's declaration, are hearsay. Malibu Media has failed to provide
4 sworn evidence to support the reliability of the Maxmind database, which is necessary to show
5 that this Court has personal jurisdiction over each of the defendants and that venue is proper
6 here. Accordingly, Malibu Media's motions are **DENIED**.

7 This is without prejudice to a renewed motion supported by a sworn accounting of the
8 accuracy of Maxmind (or some other database) for each and every case filed by Malibu Media
9 in this district.

10 Counsel is directed *not* to lodge chambers copies of any new motions to serve a third-
11 party subpoena.

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13 **IT IS SO ORDERED.**

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15 Dated: December 1, 2016.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE